

Lowell Zoning Board of Appeals Minutes

November 23, 2020 6:30 P.M.

Note: These minutes are not completed verbatim. For further detail, contact the Division of Development Services, 375 Merrimack Street, Lowell, MA or refer to video recordings available online at www.LTC.org.

Members Present: Chairman Perrin, Member Pech, Member Callahan, Member McCarthy, Member Procope, Member Briere

Members Absent: Member Njoroge

Others Present: Christine McCall, Director of Economic Development

The following represents the actions taken by the Zoning Board of Appeals at the 11/23/2020 meeting. Due to the COVID-19 pandemic, this meeting occurred using the Zoom videoconferencing platform.

Chairman Perrin called the meeting to order at 6:30pm.

I. Continued Business

ZBA-2020-42

Petition Type: **Variances**

Applicant: **Thanh Pham**

Property Located at: **50 Wentworth Ave 01852**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **Thanh Pham is seeking Variance approval to modify the existing lot lines of two parcels at 50 Wentworth Ave that have merged for the purposes of zoning and build a new single-family home on one of the parcels. Both lots are in the Suburban Single Family (SSF) zoning district. The new home will require Variance approval under Section 5.1 for minimum lot size, minimum lot area per dwelling unit, and minimum frontage, and the existing dwelling will require Variance approval under Section 5.1 for the front yard setback, to exceed the maximum allowed Floor Area Ratio (FAR), and for any other relief required of the Lowell Zoning Ordinance. The applicant has requested a continuance to the December 14, 2020 ZBA meeting.**

On Behalf:

None

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

None

Motion:

Member Callahan motioned and Member McCarthy seconded the motion to continue the petition to December 14, 2020. The motion passed unanimously (5-0).

ZBA-2020-44

Petition Type: **Special Permit**

Applicant: **Pineapple Realty, LLC**

Property Located at: **17 Montreal St, 264 Plain Street, 266 Plain Street, 68 Montreal Street, 65 Montreal Street, 201.1 W Manchester Street, 57 Montreal Street, 194 Manchester Street, 278 Plain Street 01852**

Applicable Zoning Bylaws: **Section 12.5(f)**

Petition: **Pineapple Realty, LLC is seeking Special Permit approval to store construction materials and screen loam associated with a landscaping business at the properties located at 17 Montreal Street, 264 Plain Street, 266 Plain Street, 68 Montreal Street, 65 Montreal Street, 201.1 W Manchester Street, 57 Montreal Street, 194 Manchester Street, and 278 Plain Street. The properties are in the Light Industrial (LI) zoning district and the use requires Special Permit approval under Section 12.5(f) and any other relief required of the Lowell Zoning Ordinance. The applicant has requested to withdraw this petition without prejudice.**

On Behalf:

George Theodorou

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

None

Motion:

Member Callahan motioned and Member Pech seconded the motion to accept the withdrawal without prejudice. The motion passed unanimously (5-0).

ZBA-2020-45

Petition Type: **Variances**

Applicant: **Andrea Drolet**

Property Located at: **207 Wentworth Ave 01852**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **Andrea Drolet is seeking Variance approval to construct an addition to a single-family home at 207 Wentworth Ave. The home is in the Suburban Neighborhood Single-Family (SSF) zoning district and the addition requires variance approval under Section 5.1 to exceed the maximum allowed Floor Area Ratio (FAR) and for all other relief required of the Lowell Zoning Ordinance.**

On Behalf:

Andrea Drolet

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

Member Pech expresses gratitude to the applicant for the updated plans. Member Pech has no objections to the addition.

Member Callahan expresses gratitude to the applicant for submitting updated plans.

Member McCarthy is grateful for the steps the applicant took to explain the project in full detail. It explains what you the applicant is trying to do and is staying within reason for the property. He wishes the applicant the best of luck. The proposed addition fits well in the neighborhood. He looks forward to this family staying in this wonderful City on that great street.

Member Briere is more than happy to support the petition.

Member Procope echoes the comments of his colleagues and does not have any objections.

Chairman Perrin states that the applicant has met the application requirements and believes the addition will fit nicely into the neighborhood.

Motion:

Member Callahan motioned and Member McCarthy seconded the motion to APPROVE the project. The motion passed unanimously (5-0).

II. New Business

ZBA-2020-43

Petition Type: **Variances**

Applicant: **JAF 27 LLC**

Property Located at: **11 Kensington Street 01852**

Applicable Zoning Bylaws: **Section 5.1, Section 6.1**

Petition: **JAF 27 LLC is seeking Variance approval to subdivide the existing property at 11 Kensington Street and construct a single family home on the new lot. The property is in the Traditional Neighborhood Two Family (TTF) zoning district. The proposal requires Variance approval under Section 5.1 for minimum lot area, minimum lot area per dwelling unit, front yard setback, and rear yard setback, under Section 6.1 to exceed the maximum allowed curb cut, and for any other relief required of the Lowell Zoning Ordinance.**

On Behalf:

Ken Lania

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

Mr. Lania requests that the application to be withdrawn without prejudice.

Motion:

Member Callahan motioned and Member Briere seconded the motion to ACCEPT the withdrawal without prejudice. The motion passed unanimously (5-0).

ZBA-2020-49

Petition Type: **Special Permits**

Applicant: **Mayani Auto Wash & Mayani Laundromat**

Property Located at: **1700 Middlesex Street 01851**

Applicable Zoning Bylaws: **Section 6.3.4**

Petition: **Mayani Auto Wash & Mayani Laundromat is seeking Special Permit approval to install three internally illuminated signs at 1682, 1696, & 1700 Middlesex St. The signs would be in the Regional Retail (RR) zoning district and need Special Permit approval under Section 6.3.4 for the internal illumination and for one roof sign and for any other relief required of the Lowell Zoning Ordinance.**

On Behalf:

Richard Biggins

Taylor Campbell

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

Mr. Biggins states that the proposed project is a rebrand for the existing property and existing businesses.

Member McCarthy states that he approves the improvements that have been made on site over the summer. He states that the rebranding has a great color scheme. He has some questions about what the sign will look like when it is illuminated at night. Mr. Biggins states just the letters and the logo will be the only thing illuminated. Member McCarthy asks what the hours of operation will be. Currently, the signs will be off at 11P. The business owners plan to match hours with existing businesses in the area. Member McCarthy would like to see a condition where the signs are not illuminated 24/7.

Member Procope states that he drove by the property and states that it appears to have been improved from a maintenance perspective. His only concern is the hours of illumination. The applicant's representatives are open to shutting off the illumination 1 hr. after closing.

Member Briere states that there have been a number of improvements along this corridor and believe this is another positive improvement to this business corridor. He supports the petition.

Member Pech echoes the statements of his colleagues. He asks if the Laundromat is a 24/7 operation. The applicant is willing to dim the lights of the sign, if the business is 24/7, at 11P.

Member Callahan agrees with his colleagues and proposes that the applicant cease to illuminate the signs 1 hr. before sunrise and one hour after sunset or 1 hr. after closing, whichever happens first.

Motion:

Member Callahan motioned and Member McCarthy seconded the motion to APPROVE the petition with the following condition:

- The signs shall cease to illuminate either one-hour before sunrise and one hour after sunset or one hour after the business closes, which ever happens first.

Member McCarthy seeks to clarify if the motion should be split to identify each business at the subject location in the event that the Laundromat is a 24/7 business. The applicant's representative states that the Laundromat closes at 10P and the Board does not need to be concerned with 24/7 illumination.

The motion passed unanimously (5-0).

ZBA-2020-50

Petition Type: **Variances**

Applicant: **Coljack Development Corp.**

Property Located at: **16-20 Court Street 01852**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **Coljack Development Corp. is seeking Variance approval to unmerge two lots that have merged for the purposes of zoning and construct a new single-family house on the vacant lot. The properties are located in the Traditional Neighborhood Two-Family (TTF) zoning district. The existing home at 16 Court Street requires Variances under Section 5.1 for minimum lot area, minimum lot area per dwelling unit, frontage, usable open space per dwelling unit, front yard setback, side yard setback, and rear yard setback. The proposed home at 20 Court Street requires Variances under Section 5.1 for minimum lot area per dwelling unit, frontage, side yard setback, rear yard setback, and usable open space per dwelling unit and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

George Theodorou, Representative for Applicant

Matt Hamor, Representative for Property Owner

Speaking in Favor:

None

Speaking in Opposition:

Mike Ashe, 100 Quebec Street (corner on Manchester Street) states that on street parking in this neighborhood is very crowded. He has concerns about this property, it is currently for sale and there is a lot for sale across the street. He fears if the Board approves this project, they will have to approve a similar project across the street. This would be too dense for the neighborhood. He mentions concerns about navigating snow during the winter. Mr. Ashe asks the Board, should we not rely on the zoning rules for protection? Or do we, the abutters, have to pay better attention? This does not look normal. We need to remember that the zoning district is there for a purpose, and we should honor the zoning

districts except in the case of hardship.

Discussion:

Member Procope has questions about the petition but would like to hear from his colleagues.

Member McCarthy expresses concern over the requested relief and the proposed project. He requests that the applicant should have submitted additional information in defense of the applications position and how it would not derogate the zoning. Member McCarthy and Attorney Theodorou engaged in a conversation about the project as proposed and the feasibility of proposing one structure as an alternative. Member McCarthy expresses concern about future density in this neighborhood. Member McCarthy would like to see an analysis of all properties in the neighborhood.

Matt Hamor discusses his interpretation of the usable open space-zoning requirement as it is compared to the strict interpretation by staff of the usable open space definition of the ordinance. Mr. Hamor also discusses parking concerns that often arise with a two-family that share one parking area.

Member Callahan states that the applicant is asking for a lot of relief and he understands both sides of the issue. He concurs with Member McCarthy and asks that the applicant look into one, two-family structure as an alternative. Member McCarthy & Member Callahan would like to see more evidence about how this project meets the requirement and why a two-family could not possibly be feasible. Member Callahan asks about the bituminous concrete patio shown on the plan. He is seeking clarification if this will be greenspace or a parking area. Mr. Hamor states that the bituminous concrete will be removed. Mr. Hamor states that this project is very similar to the Abbott Street project, a plan that the Board had approved previously.

Member Briere states that this is a neat little project that fits neatly on that lot. He states he is still inclined to think that way. He is making sure to pay particular attention to his colleagues and learn quite a bit. Member McCarthy raises some valid concerns about the intent of the zoning in this situation. Member Briere is inclined to vote in favor of this petition. But he needs to do more homework. He would favor this additional information that is being requested and he hopes it is to the benefit to both the City and the petitioner in the end.

Attorney Theodorou requests a continuance to December 14, 2020.

Motion:

Member Callahan motioned and Member Pech seconded the motion to continue to the petition to December 14, 2020. The motion passed unanimously (5-0).

THE FOLLOWING PETITIONS WERE HEARD TOGETHER

ZBA-2020-51

Petition Type: **Special Permit**

Applicant: **DSM MB II, LLC**

Property Located at: **11 Wood Street (Lowell Dentistry) 01851**

Applicable Zoning Bylaws: **Section 6.3**

Petition: **DSM MB II, LLC is seeking Special Permit approval to install an internally illuminated wall sign at 11 Wood Street; 675 Princeton Boulevard for Lowell Dentistry. The sign would be in the Regional**

Retail (RR) zoning district and needs Special Permit approval under Section 6.3 and for all other relief required of the Lowell Zoning Ordinance.

ZBA-2020-52

Petition Type: **Special Permit**

Applicant: **DSM MB II, LLC**

Property Located at: **11 Wood Street (Reichheld Ting Orthodontics) 01851**

Applicable Zoning Bylaws: **Section 6.3**

Petition: **DSM MB II, LLC is seeking Special Permit approval to install an internally illuminated wall sign at 11 Wood Street; 675 Princeton Boulevard for Reichheld Ting Orthodontics. The sign would be in the Regional Retail (RR) zoning district and needs Special Permit approval under Section 6.3 and for all other relief required of the Lowell Zoning Ordinance.**

On Behalf:

Brandon C, Barlo Signs

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

The entire Board agrees that both of these applications are straightforward petitions. The Board commented on how positive the improvements to this retail area have been on this neighborhood.

Motion:

Member Callahan motioned and Member Briere seconded the motion to APPROVE the petition (ZBA-2020-51) with the following condition:

- The signs shall cease to illuminate one hour before sunrise and either one-hour after sunset or one hour after the business closes, which ever happens first.

Member Callahan motioned and Member Briere seconded the motion to APPROVE the petition (ZBA-2020-52) with the following condition:

- The signs shall cease to illuminate one hour before sunrise and either one-hour after sunset or one hour after the business closes, which ever happens first.

The motion passed unanimously (5-0).

III. Other Business

Minor Modification Request: 52 Staveley Street 01852

The applicant is seeking to modify their proposal to construct an addition onto their existing single-family home by extending the addition in the front, rear, and side of the home. They received Variance approval at the 1/27/2020 ZBA meeting.

On Behalf:

DeAlmeida, Property owners

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

Member Pech asks the applicant to explain their minor modification request. He states that he does not have concerns and thinks the proposed changes are a good idea. Overall, he thinks the proposed changes are fine.

Member Callahan states that he does not believe that these are minor modifications and thinks the applicant needs to submit a new full application.

Member McCarthy states that he does not see the front bump out on the site plan. The bump out is shown on the elevations. Member McCarthy states that the rear piece he could accept as a minor modification. He does not think this is a complete application for a minor modification. Member McCarthy states we don't have a site plan, we don't have a grading plan. He has concerns about the new bump out on the front.

Member Briere states that he is not sure what is being asked of him.

Member Procope concurs with his colleagues.

Chairman Perrin continues this to December 14, 2020 for more information, to allow for time for feedback from other Departments. The Board is not clear on whether or not the front bump out is allowable by right. Chairman Perrin states that they have a lot of questions and would like some feedback from other City Departments.

Member Pech explains to the property owners that the Board is trying to find a middle ground.

Member Callahan explains to the applicants the Boards role in protecting the interests of the public and neighborhood.

Motion:

Member Callahan motions and Member McCarthy seconds the motion to continue this petition to December 14, 2020.

Staff Update: 153 Westford Street 01851

Member McCarthy asks for additional information for the next meeting. He asks for a status update on the building permits issued in context of the larger project and overall construction timeline. He would also like an update on the conditions of the project (e.g. demolish garage to create greenspace to mitigate stormwater runoff).

Minutes for Approval:

November 9, 2020

Member Callahan motioned and Member Procope seconded the motion to ACCEPT the November 9, 2020.

Member McCarthy states that the Bowers House on Wood Street is in severe disrepair. He states that there are holes in the roof of building. The house was never addressed and has sat vacant since the Board approved a project adjacent to this property. As the oldest house in the City, he thinks it deserves additional attention. Member McCarthy requests staff to see if there are any violations of any land use board conditions by letting this property fall into disrepair. He would like a memorandum from staff at the next meeting.

Adjournment

Member Callahan motioned and Member McCarthy seconded the motion to ADJOURN the meeting. The motion passed unanimously (5-0).

New Business to Be Advertised by November 8, 2020 and November 15, 2020